

**United States District Court
Eastern District of Michigan
Southern Division**

TIANA HEALEY (NEE) TIANA PALMER,
individually, and **TIANA HEALEY**, in a
representative capacity on behalf of
similarly situated persons,

Plaintiff,

v.

**MIDLAND FUNDING LLC, MIDLAND
CREDIT MANAGEMENT, INC., and
MARY JANE M. ELLIOTT P.C.,**

Case No.
District Judge
Magistrate Judge

Defendants.

Defendant Mary Jane M. Elliott P.C.’s Notice of Removal

Please take notice that under 28 U.S.C. § 1441, Defendant MARY JANE M. ELLIOTT P.C. hereby removes this action from the Third Judicial Circuit Court of the State of Michigan, Wayne County, to the United States District Court for the Eastern District of Michigan, Southern Division. In support of this Notice of Removal, Defendant Mary Jane M. Elliott P.C. states as follows:

1. On October 30, 2020, Plaintiff filed a complaint in the Third Judicial Circuit Court for the County of Wayne, State of Michigan, entitled *Tiana Healey v. Midland Funding LLC, et al.*, Case No. 20-014367-CZ (“State Court Action”). The complaint alleges five causes of action arising under Federal, California, and Michigan law: (1) wrongful garnishment after dismissal of state court case; (2) wrongful garnishment—venue violation; (3) suit on a time barred debt; (4) suit on time barred debts (class claim); and (5) suit on an “open account” (class claim).

2. On or about November 12, 2020, Plaintiff served Defendant Mary Jane M. Elliott, P.C. with the summons and the complaint.

3. Accordingly, Defendant Mary Jane M. Elliott, P.C. has filed this Notice of Removal within 30 days after service of the initial pleading stating a removable claim and it is timely filed under 28 U.S.C. § 1446(b). Specifically, each defendant shall have 30 days after receipt by or service on that defendant of the initial pleading or summons. 28 U.S.C. § 1446(b)(2)(B).

4. As of this date, Defendants Midland Funding, LLC and Midland Credit Management, Inc. have not been served with a copy of the summons and complaint on information and belief. Accordingly, consent is not required. *See White v. Medtronic, Inc.*, 808 F. App'x 290, 292 (6th Cir. 2020) (“consent of all defendants is not required when the non-consenting defendant ‘has not been served with service of process at the time the removal petition is filed’”).

5. A true and correct copy of all process, pleadings, and orders in the State Court Action are being filed with this Notice of Removal as required by 28 U.S.C. § 1446(a) and are attached as **exhibit A**.

6. This Court has original jurisdiction over the action under 15 U.S.C. § 1692k(d) and 28 U.S.C. § 1331 and removal jurisdiction under 28 U.S.C. § 1441(a) because it is a civil action arising under the laws of the United States. Specifically, Plaintiff’s complaint alleges violations and seeks relief under the Fair Debt Collections Practices Act, 15 U.S.C. § 1692, *et seq.* *See* Compl. ¶¶ 1–3, 6, 9, 16–17, 30, 72, 78–80, and 88–90. This Court also has supplemental jurisdiction over the state law claims under 28 U.S.C. § 1367(a).

7. Under 28 U.S.C. § 1441(a), venue of the removed action is proper in this Court as the district and division embracing the place where the State Court Action is pending.

8. Contemporaneous with the filing, a copy of the Notice of Removal, along with the Notice of Filing of Notice of Removal,¹ will be filed with the Clerk of the Third Judicial Circuit Court, Wayne County, Michigan, and served on counsel for all adverse parties under 28 U.S.C. § 1446(d). Accordingly, under 28 U.S.C. §§ 1331, 1367, 1441, and 1446, this action is properly removed to this Court.

9. By removing this action from the Third Judicial Circuit Court, Wayne County, Michigan, Defendant Mary Jane M. Elliott, P.C. does not waive any defenses available to it.

10. By removing this action from the Third Judicial Circuit Court, Wayne County, Michigan, Defendant Mary Jane M. Elliott, P.C. does not admit any of the allegations in Plaintiff's complaint.

11. Before filing this Notice of Removal, Defendant Mary Jane M. Elliott, P.C. did not answer or otherwise plead in response to the complaint in the State Court Action. Therefore, it will answer or present other defenses and objections under Rule 81(c)(2)(C) of the Federal Rules of Civil Procedure

Defendant MARY JANE M. ELLIOTT P.C. removes the above-captioned action from the Third Judicial Circuit Court, Wayne County, Michigan to the United States District Court for the Eastern District of Michigan, Southern Division.

¹ An unsigned copy of the Notice of Filing of Notice of Removal to be filed with the state court is attached as **exhibit B**.

Respectfully submitted,

SILVERSTEIN LEGAL

By: /s/Corey D. Silverstein
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